

Appl. No. : 10/693,663  
Filed : October 24, 2003

### AMENDMENTS TO THE CLAIMS

Please amend Claims 1, 8, 13, and 14 and add new Claims 19-28 as indicated below.

1. (Currently amended) A method of fixing adjoining vertebrae of the spine of a patient, comprising:

inserting into said patient an access device to a surgical location adjacent the spine with said access device in a first configuration having a first cross-sectional area at a distal portion thereof, wherein after insertion said access device is inclined from a plane that is generally perpendicular to the spine of the patient;

actuating said access device to a second configuration having an enlarged cross-sectional area at said distal portion thereof;

delivering a first fastener through the access device to the surgical location; and

advancing said first fastener through a first vertebra and into a second vertebra.

2. (Original) The method of Claim 1, wherein the access device is inserted via a generally posterior approach.

3. (Original) The method of Claim 1, wherein the access device is inserted via a postero-lateral approach.

4. (Original) The method of Claim 1, further comprising the introduction of a boring tool to the surgical location through the access device and advancing said boring tool to create a tunnel through the bone prior to delivering said first fastener.

5. (Original) The method of Claim 1, wherein the surgical location is scored prior delivering the fastener or boring through the bone.

6. (Original) The method of Claim 1, wherein the method of fixation is transfacet pedicle screw fixation.

7. (Original) The method of Claim 1, wherein the method of fixation is translaminar facet screw fixation.

8. (Currently amended) The method of Claim 1, further comprising delivering through an access device a second fastener to a second surgical location at the spine and advancing the second fastener through the first vertebra and into the second vertebra, said first and second fasteners substantially preventing movement of the first vertebra relative to the second vertebra.

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9. (Original) The method of Claim 8, further comprising prior to delivering said second fastener, introducing a boring tool to said second surgical location through the access device and advancing said boring tool to create a tunnel through the bone.

10. (Original) The method of Claim 8, wherein said second fastener is delivered through the same access device used to deliver said first fastener.

11. (Original) The method of Claim 8, wherein said second fastener is delivered through a second access device.

12. (Original) The method of Claim 8, wherein said second fastener is delivered through a cannula.

13. (Currently amended) The method of Claim 8, wherein said second surgical location is scored prior to delivering said second fastener or boring through the bone

14. (Currently amended) A method of treating a spine of a patient, comprising:

inserting an access device into said patient to a surgical location adjacent the spine with said access device in a first configuration having a first cross-sectional area at a distal portion thereof, wherein after insertion said access device is inclined from a plane that is generally perpendicular to the spine of the patient;

actuating said access device to a second configuration having an enlarged cross-sectional area at said distal portion thereof; and

fastening through a first vertebra and into a second vertebra one or more fasteners delivered through said access device, said one or more fasteners providing a transfacet fixation method substantially preventing movement of the first vertebra relative to the second vertebra.

15. (Original) The method of Claim 14, wherein the access device is inserted via a generally posterior approach.

16. (Original) The method of Claim 14, wherein the access device is inserted via a postero-lateral approach.

17. (Original) The method of Claim 14, wherein a single access device is used to approach the surgical location adjacent the spine.

18. (Original) The method of Claim 14, wherein multiple access devices are used to approach the surgical location adjacent the spine.

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19. (New) The method of Claim 1, wherein an angle of incline between a longitudinal axis of the access device and the plane that is generally perpendicular to the spine is less than about 60 degrees.

20. (New) The method of Claim 1, wherein an angle of incline between a longitudinal axis of the access device and the plane that is generally perpendicular to the spine is in a range from about 10 degrees and to about 45 degrees.

21. (New) The method of Claim 14, wherein an angle of incline between a longitudinal axis of the access device and the plane that is generally perpendicular to the spine is less than about 60 degrees.

22. (New) The method of Claim 14, wherein an angle of incline between a longitudinal axis of the access device and the plane that is generally perpendicular to the spine is in a range from about 10 degrees and to about 45 degrees.

23. (New) A method of fixing adjoining vertebrae of the spine of a patient, comprising:

inserting into said patient an access device with said access device in a first configuration having a first cross-sectional area at a distal portion thereof;

actuating said access device to a second configuration having an enlarged cross-sectional area at said distal portion thereof exposing a first surgical location adjacent the spine and a second surgical location adjacent the spine;

delivering a first fastener through the access device to the first surgical location;

advancing said first fastener through a first vertebra and into a second vertebra;

delivering a second fastener to the second surgical location at the spine through the access device; and

advancing the second fastener through the first vertebra and into the second vertebra, said first and second fasteners substantially preventing movement of the first vertebra relative to the second vertebra.

24. (New) The method of Claim 23, wherein the spinous process of the first vertebra is within or adjacent a working space defined by the distal end of the access device in the second configuration.

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25. (New) The method of Claim 23, wherein the spinous process of the second vertebra is within or adjacent the working space.

26. (New) The method of Claim 23, wherein the spinous process of a third vertebra is within or adjacent the working space.

27. (New) A method of fixing adjoining vertebrae of the spine of a patient, comprising:

inserting into said patient an access device having a medial side to a surgical location adjacent the spine, the access device having a first cross-sectional area at a distal portion thereof during insertion;

actuating said access device such that said distal portion has an enlarged cross-sectional area;

delivering a first fastener through the access device to the surgical location; and

advancing said first fastener through a first vertebra and into a second vertebra;

wherein after insertion a plane extending posteriorly and including a longitudinal axis of the spine intersects said access device and wherein during said actuating said medial side of the access device moves toward the spinous process.

28. (New) The method of Claim 27, wherein after being inserted, a proximal portion of said access device is on a first side of said plane and said distal portion of said access device is on a second side of said plane.

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Appl. No. : 10/693,663  
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A sample of the assignee's product

Identification of Claims Discussed

1 and 6

Identification of Prior Art Discussed

- U.S. Patent No. 6,485,518 to Cornwall
- U.S. Patent No. 6,530,926 to Davison

Proposed Amendments

Various limitations related to the method believed to overcome the prior art of record were discussed.

Principal Arguments and Other Matters

The anticipation rejection of Claim 1 and the obviousness rejection of Claim 6 are improper. Additionally, various aspects of the claimed methods are not described in the prior art of record.

Results of Interview

Applicant to prepare and file an amendment.